

# Board of Adjustment Hearing Testimony and Actions

Thursday, March 16, 2006  
2:00 p.m., Room 317 City Hall

**Board Membership:** Ms. Debra Bloom, Mr. Matt Ditzler, Mr. David Fields, Mr. John Finlayson, Mr. Paul Gates, Ms. Marissa Lasky, Mr. Matt Perry, Mr. Peter Rand

The Board of Adjustment of the City of Minneapolis will meet to consider request for the following:

**1. 1300 Lagoon Avenue (BZZ-2836, Ward 10)**

Karl Bowman, on behalf of Financial Freedom Realty, has filed a variance to increase the maximum allotted area of wall mounted signage where a freestanding sign exists from 125 square feet to 299 1/2 square feet along Lagoon Avenue, and to increase the maximum allotted area of wall mounted signage where a freestanding sign exists from 75 square feet to 164 1/2 square feet along Fremont Avenue; and to increase the maximum permitted height of signage allowed from 24 to 30 feet, all to allow for the installation of two 48 square foot internally illuminated signs at 1300 Lagoon Avenue in the C2 Neighborhood Corridor Commercial zoning district.

**CPED Department Planning Division Recommendation by Mr. Clarksen:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to increase the maximum allowable area of all signs on the building along Lagoon Avenue from 125 square feet to 299 ½ square feet, and to **deny** a variance to increase the maximum allowable area of all signs on the building along Fremont Avenue from 75 square feet to 164 ½ square feet, and to **deny** a variance to increase the maximum permitted height of signage from 24 to 30 feet above grade, to allow the installation of two 48 square foot internally lit wall signs for property located at 1300 Lagoon Avenue in the C2 Neighborhood Corridor Commercial District.

## TESTIMONY

**Staff presented their report and recommendation to the Board of Adjustment.**

**One of the Board Members:** Where is the entrance for the applicant in all of this?

**Mr. Clarksen** pointed out the entrance to the 2<sup>nd</sup> floor.

**Mr. Clarksen:** There is another photo that I did not show where it shows the inside of the lobby, but that is the entrance where you go in and there are stairs once you get inside to get up to the 2<sup>nd</sup> floor use, and that is off Lagoon Avenue.

**Finlayson:** Mr. Gates?

**Gates:** Mr. Clarksen, can you comment on how we got to this point where the applicant has more than twice as much signage that is allowed by Code, and they are applying for more? How did they get the 260 sq. ft.? Were things put up that were done that they didn't apply for permits...clue us in on the history if you can.

**Mr. Clarksen:** Chair Finlayson, Board Members...What I saw in my review of the permit history was that most, if not all, of the signage on this building had permits on record. I can't speak to the rest of the signage...in KIVA, our system, I did not see a permit for that, but I don't know if that means it was not issued a permit, or....I believe that it is not reflected in the system...they could be older. In the best of my study of this, that is how we got to it being over by so much.

**Gates:** Do you know the sequence of the erection of these signs...did the pylon sign come at a later point that some of the other wall signs...do you know that....and once the pylon sign is in, as I understand, that reduces the amount of signage that is allowable on the wall, is that correct?

**Mr. Clarksen:** That is correct. I did not really explain that very well. The sign budget allows for a certain number of signs based on the length of the primary building wall. When you add a freestanding sign, it reduces that calculation from 1 ½ sq. ft., per one linear foot of wall length, to one sq. ft. per linear foot wall length, so that is where they are at. The Lagoon Avenue wall is 125 ft., therefore, they are allowed 125 ft. on that wall, and it is because of the freestanding sign being there.

**Gates:** Do you know if the freestanding sign went in under permit?

**Mr. Clarksen:** That's my understanding.

**One of the Board Members:** So the signs got permits, but did not need a variance even though exceeded the allowable signage for the building, or they did receive a variance for those signs?...or we don't know?

**Mr. Clarksen:** Nothing in the record gave me an indication as to whether those signs were permitted via variance or some other means. They were there.

**Mr. Finlayson:** Any further questions? O.K. , is the applicant present?

**Karl Bowman:** Yes.

**Mr. Finlayson:** Do you care to make a statement?

**Karl Bowman:** Yes.

**Mr. Finlayson:** Name and address for the record please.

**Karl Bowman:** My name is Karl Bowman. I am the owner of Sign A Rama in Minneapolis, which is at 1050 33<sup>rd</sup> Avenue S.E. in Minneapolis. I am a licensed sign hanger in Minneapolis. So I am just going to speak to the other side of the issue that Staff is recommending that the variance be denied. I am just going to argue that some of the variance findings are...that you need to prove a hardship....to get a

variance to the code for signs, and in this particular case, the tenant is coming in and taking over the entire second floor of the building, and prior to them being there, the upper floor was occupied by commercial tenants...a salon, and a Dr.'s office, and they had significant signage on the top of the building to identify themselves. We couldn't find any records that they had ever pulled permits for those, but the tenant going into the second floor right now....and the sign code does not guarantee any signs...you have to have a ground-floor entry to be guaranteed signs even if the maximum amount of signage is already exceeded on the building; Supposedly, that law allows you to trump that. So if these folks were on the first floor, even though that the building was maxed out, my understanding of the code is that they are still guaranteed signs. In this case, since they are on the 2<sup>nd</sup> floor, I would argue that the sign code, the way it is written in Minneapolis, it penalizes businesses that have 2<sup>nd</sup>, 3<sup>rd</sup> or even 4<sup>th</sup> story businesses, because it is based on the linear footage and not the square footage of a particular elevation or building façade. So, as it stands right now, this is a real estate firm in Uptown that does a lot of business in that area, and these are their primary offices to meet with clients and to advertise their business, and they would have no signage at all, based on the sign code. The other thing I would argue is that when you are looking at the signs were up here, that sign is not a free-standing sign, because you called in a pylon, and that usually means it is anchored into the ground, but it is actually sitting on a canopy, so I think like minds could make strong arguments either way if that is a freestanding sign or not. The reason I bring that up is because if you do count it as a freestanding sign, it decreases the allowable amount of square footage of sign on the building, and if it were not counted as a freestanding sign, it would still be exceeding the total square footage that would normally be allowed on the building, it just would not be exceeding it as much. The other thing I would argue is that if the landlord allowed the tenants to get put in this type of predicament by not adequately governing the signage that is going up on the building....I would just say that they way that the Minneapolis Sign Code is set up, in that the landlord does not have to sign off on any permits, and the applicant does not need any landlords approval, they can go directly and apply for a permit, and if their sign meets the code requirements, it can be granted, regardless of whom might come in the future of the building, so as tenants went in there, the landlord may or may not have been notified of what kind of signs were going to be going on the building...they weren't required to. I don't know the history with them, but one of things that I am arguing is that the current tenant that is trying to go in there, not be penalized for what I think are a few deficiencies in the Minneapolis Sign Code regarding the 2<sup>nd</sup> floor story, and the strong requirement of the landlord properly allocating signage on a building. One other thing I would speak to....showed pictures....we just took these shots at dusk, and one of things that we want to make sure is that if you adding signs to a building that you don't increase the sign clutter, so where we are going to place these on the building are away from any other signs on the building, so, in my professional opinion, I don't think that it is adding to the sign clutter, because the other signs are broken up quite a bit around the building, and the one other thing that I want everybody to consider is that before Financial Freedom was going into the 2<sup>nd</sup> story up there, the previous 5 years when it was occupied by the Dr.'s and salon up there, the overall amount of signage that is going to be on this building is going to be less than what was up there when the other previous 2<sup>nd</sup> floor tenants were up there. So if you are looking at moving towards compliance or away from compliance and getting the building into compliance, because it is not in compliance right now, I would argue that this is at least going...it is less than what was up there before. So those are my main arguments...if anybody as questions.

**Mr. Finlayson:** I see none at this point. Thank you. Anyone else to speak in favor?

**Karl Bowman:** One other thing I just wanted to add is that the East Lowry Neighborhood Association that we went to...we went in front of them last night....and they passed a resolution in support of approving the variance, so I just wanted to have that for the record.

**Mr. Finlayson:** Thank you.

**Mr. Clarksen:** Karl just mentioned what I forgot to tell you about the LENA Board supporting this.

**Mr. Finlayson:** Thank you. Anyone else to speak in favor? Anyone else to speak against? We will close the public portion of this item. Board comment please.

**Mr. Ditzler:** I know I am probably going to be in the minority on this point, but I would like to say it for the record since I think the last time we visited a resolution like this was maybe either for the salon that went out of the business or maybe a different salon. I am of the belief that the Minneapolis Sign Code does not have a deficiency for 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> level businesses. I believe that perhaps the purpose of the Code is to maybe that the esthetic quality of repetitive floors without signs maybe overweighs the fact of just because a building is 4 stories tall there are tenants there that maybe we should not create 4-story billboards, and then maybe in that case when we have multiple levels of commercial use that they should be handled like they are Downtown where the building itself is signed and inside you get the directory of where the businesses are. I realize that Uptown is kind of unique in that way, and it is such a high-pedestrian traffic area, but I am going to support the Staff's recommendation, and I know Financial Freedom also has offices in almost everyone of the buildings that they sell, so I think they have other options, I don't really consider it a hardship, so I will be supporting Staff's recommendation.

**Mr. Rand:** I am assuming that's a motion.

**Mr. Ditzler:** Sure

**Mr. Rand:** I'll second the motion to support Staff's recommendation. If we want to organize and reduce sign clutter and so on...obviously landlords and building owners should work it out in their leases or in whatever agreements they have on how to handle it for their various tenants in the various spaces they have, and this photograph right here is an example of what I would call sign clutter. I think your presentation was very good in terms of what you are intending to do and to get it under control, and I applaud that. I think this is very good, but in terms of supporting the ordinances, I support Staff recommendation.

**Mr. Gates:** Well, I disagree. We did a case a couple of weeks ago right around the corner...

**Mr. Finlayson:** Lagoon and Hennepin

**Mr. Gates:** ....where I think we more or less agreed that because there was a 2<sup>nd</sup> story business we felt like the code should acknowledge that...that there should be some way to take into account that you've got actually twice as much commercial enterprise going on within that given linear footage on the sidewalk. I would be, for that reason, in favor...I can find hardship on the basis and would be in favor for granting some kind of variance here, perhaps as much as twice the amount allowed by Code. Twice as much, though, wouldn't get this building to even where it is now, let alone, the additional signage it wants to put on, and that to me is the landlords problem...I disagree with the applicant...the landlord absolutely has to have control of the signage on the building with the leases and if some of the tenants exceed that and it leaves no signage left for other tenants, then that is the landlords problem, so I will not be supporting the motion, and I will offer an alternative if it does not pass.

**Mr. Finlayson:** I agree with Mr. Gates. I don't believe the purpose of Code should be to destroy the commercial value of everything above 1<sup>st</sup> level, nor do I believe it should discourage businesses from succeeding, and so I won't be supporting this particular motion.

**Mr. Perry:** As I said in the previous case that's been cited, there are other opportunities for the businesses to work with the landlord to get the signage that they need. I haven't heard any compelling hardship in this situation. It seems like instead of working through the landlord the first thing that is

being pursued is instead to look for a variance, and so I will be supporting the motion to be consistent as I have voted in the past on these issues.

**Ms. Lasky:** Normally I would give the applicant a variance if the building itself had not exceeded the amount of sign, but I am sympathetic to the landlord who may not have recourse since these signs are up and he has leases in place, but until that has been dealt with, at least investigated, I will support Staff.

**Mr. Finlayson:** Please call the roll.

**Yeas:** Ditzler, Perry, Rand, Lasky

**Nays;** Fields, Finlayson, Gates

**Abstains:** None

The motioned was made and carried to **uphold Staff's Recommendation and to deny** the variances.